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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,605	08/09/2007	David William Leeming	347576	1535

7590  
Security Officer  
P O Box 77301  
Atlanta, GA 30357

EXAMINER
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ABDOSHI, SAMIR

ART UNIT	PAPER NUMBER
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3641

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03/23/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,605	<b>Applicant(s)</b> LEEMING, DAVID WILLIAM	
	<b>Examiner</b> SAMIR ABDOSH	<b>Art Unit</b> 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Drafts, Person's Patent Drawing, Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This communication is a final rejection on the merits in response to amendments received on January 19<sup>th</sup>, 2011.

#### Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 35 and 36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In both claims 35 and 36, the circumference of the net mesh is determined relative to the dimension of the “maximum circumference of the rocket propelled grenade”. However, the RPG of the claim is of no particular type, size, or shape, making the value of the “maximum dimension of circumference” a variable term. The maximum circumference is unknown and the circumference of the net is unknown, since the mesh is directly related to the size of the maximum circumference. As such, a person of ordinary skill in the art would not be capable of constructing a mesh capable of performing the claimed method based on the present language of the claim. The Applicant should *note that simply omitting ‘determining the maximum circumference of the rocket propelled grenade’ from the claim language ignores the fact that such a step must still be performed in order to select the circumference of the net mesh in the manner described by the claims.*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since RPG's come in many shapes and sizes, it is unclear how one would determine the size of the net mesh with respect to a maximum circumference of an unclaimed RPG. One making the net would be unclear as to the meets and bounds of the claim when sizing the opening such that the claim would not be infringed.

#### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 30-34 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beach (US Pub. 2009/0266226) further in view of Baker (USP 4,312,272).

**Regarding claims 30-34 and 38**, Beach teaches a method for protecting an object against a rocket propelled grenade, comprising:

a) providing a net formed from interconnecting net strands and defining a net mesh configured such that a rocket propelled grenade will be disabled by deformation of a nose cone of the rocket propelled grenade when the nose cone enters one of the sections of net mesh (as discussed in paragraph 13 via "collapsing the ogive of an incoming RPG", see also paragraph 88); and

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b) disposing the net, in a generally stationary manner relative to the protected between the protected object and the rocket propelled grenade (as illustrated in Figs. 17a-b).

However, in as much as the Beach reference teaches, the publication falls short of expressly teaching that the strands of the net include plastic fibers. Instead Beach teaches the use of primacord (a type of detonation cord) to form the net mesh.

While Beach teaches a detonation cord, such cords are known to include plastic fiber constructions.

Baker, for example, establishes in the 'summary of prior art' section of the specification that detonating cords commonly include explosive cores which are "wrapped in yarns comprised of rayon, acetate or nylon fibers, and sometimes in tapes of polyester, ethylene vinyl acetate or other plastic materials" (see col. 1, ll.17-27). This clearly establishes that using plastic fibers in detonation cords was a well known practice.

Consequently, it would have been within the realm of obviousness to an artisan of routine skill in the art at the time the invention was made to modify the detonation cord used by Beach by including a plastic fiber construction, similar to that taught by Baker, since it has been established that such a feature is already well known in the art.

Lastly, with respect to claims 32 and 34, the applicant is reminded that in order to overcome a prima facie case of obviousness in which claims are directed to a specific range of values, the applicant must establish existence of unexpected properties in the range claimed<sup>1</sup>(emphasis by Examiner). Based on the Applicant's disclosure, the net being at least 500mm from the protected object appears to lack critical bearing on the invention, and the

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Applicant is reminded that such dimensions must be shown to be the cause of some unknown or unexpected result.<sup>2</sup>

**Regarding claims 37, 39, and 40,** Beach teaches supporting the net by a rigid support member attached to the protected object (via supports 1202) such that the net is supported in an open condition at all times following launch of an RPG (see Fig. 17a-b).

### Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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<sup>1</sup> In re Geisler, 43 USPQ2d 1362

<sup>2</sup> see MPEP § 2144.04: "In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338; 220 USPQ 777, cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device." See also *In re Peterson*, 315 F.3d 1325; 65 USPQ2d 1379, "Prior art reference that discloses composition range encompassing somewhat narrower claimed range is sufficient to establish prima facie case of obviousness for claimed range; existence of overlapping or encompassing ranges shifts burden to patent applicant to show that claimed invention would not have been obvious."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMIR ABDOSH whose telephone number is (571) 270-5799.

The examiner can normally be reached on Monday through Thursday 6:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SIA/

/Troy Chambers/  
Primary Examiner, Art Unit 3641